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To: Delta Protection Commission

From: Margit Aramburu, Executive Director

Subject: San Joaquin County Habitat Conservation Plan

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The San Joaquin County Habitat Conservation Plan (HCP) was recently forwarded to the Council of Governments Board for approval on May 28, 1998. Attached is a summary of the HCP, and a two page summary of the impacts on and role of agriculture within the HCP.

# **OVERVIEW OF THE SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN (SJMSCP)**

## **PURPOSE**

The key purpose of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP), is to balance the need to conserve open space and the need to convert open space to non-open space uses while protecting the region's agricultural economy; preserving landowner property rights; providing for the long-term management of wildlife species; providing and maintaining multiple-use open spaces which contribute to the quality of life of the residents of San Joaquin County; and accommodating a growing population while minimizing costs to project proponents and society at large.

## **PLAN TERM**

The SJMSCP is a 50-year Plan.

## **PLAN PARTICIPANTS**

The anticipated SJMSCP Permittees (Permit Holders) are: the cities of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton, and Tracy; San Joaquin County [on behalf of San Joaquin County and the San Joaquin County Superintendent of Schools (for new schools and school expansions) and the Stockton East Water District]; East Bay Municipal Utility District; Reclamation Districts (for levees); California Department of Transportation; San Joaquin Council of Governments; San Joaquin Area Flood Control Agency; and the South San Joaquin Irrigation District. Participation by individual jurisdictions is subject to local approval by each agency. Local agencies shall maintain local implementation responsibilities including collection of fees, maintenance of implementing ordinances/resolutions, participation on and coordination with, the Joint Powers Authority (Implementing Entity).

## **PERMITTING AGENCIES**

The public agencies authorizing the SJMSCP are: the California Department of Fish and Game, the U.S. Fish and Wildlife Service, and the U.S. Army Corps of Engineers.

## IMPLEMENTING ENTITY

The SJMSCP will be administered on behalf of the Plan Participants by a Joint Powers Authority (JPA) that has adequate authority to carry out the Plan. The JPA shall be formed within 120 days of the issuance of SJMSCP Permits. The JPA shall consist of one representative from each of the cities that adopts the Plan and two representatives from the San Joaquin County Board of Supervisors, if the County adopts the Plan. Representatives on the JPA shall be elected officials from the participating local jurisdictions. The JPA shall create and consult with citizen advisory groups as needed and appropriate. The JPA shall create and consult with a Technical Advisory Committee (TAC) as described in the Plan.

## COST-BENEFIT ANALYSIS

These quantified cost-benefits are anticipated for the Plan. They do not include the non-monetary benefits which also will result from the Plan (e.g., quality of life, avoiding new listings of species, guaranteed liability protections, etc.).

### ANTICIPATED COST-BENEFITS

INTERESTED PARTIES	QUANTIFIED COST SAVINGS PROJECTIONS (ANNUALLY)	QUANTIFIED COST SAVINGS PROJECTIONS (50-YEAR PLAN)
Residents, Taxpayers of San Joaquin County	\$248,150	\$12,407,500
Local Governments	\$222,300	\$11,115,000
Permitting Agencies	\$278,550	\$13,927,500
Project Proponents	\$5,790,000	\$289,500,000
Legal: Conservation, Project Proponents and Governmental Agency interests	\$81,000	\$4,050,000
<b>TOTAL COST SAVINGS UNDER THE SJMSCP</b>	<b>\$6,371,000</b>	<b>\$318,592,500</b>

In addition to these costs savings, the Plan would generate approximately \$160,000,000 for easement payments and purchase of fee title from landowners for Preserve lands.

## **COVERED ACTIVITIES**

The SJMSCP compensates for conversions of open space for the following activities: urban development, mining, expansion of existing urban boundaries, non-agricultural activities occurring outside of urban boundaries, agricultural activities which may trigger Section 404 of the Federal Clean Water Act (for example, conversion of vernal pool grasslands to orchards and vineyards), levee maintenance, transportation projects, school expansions, flood control projects, new parks and trails, irrigation district projects, utility installation, maintenance activities, managing reserves, water projects and similar public agency projects. In addition, a contingency which provides for unanticipated project activities is included as SJMSCP Covered Activities.

## **AGRICULTURE**

The compensation requirement of the SJMSCP apply only to SJMSCP Covered Activities. Agricultural activities are **not** covered by the SJMSCP (except that conversion of wetlands requiring a Section 404 permit pursuant to the Federal Clean Water Act may be covered for individuals who voluntarily elect coverage pursuant to the SJMSCP). Therefore, conversion of open space lands by agricultural activities does **not** require compensation pursuant to the SJMSCP.

## **EASEMENTS AND PRESERVES**

Acquisition of approximately 100,242 acres of Preserves is anticipated during the 5-year term of the Plan. Approximately 90% of the acquisitions shall be through the acquisition of conservation easements with the remaining 10% of lands purchased outright. All Preserve acquisitions shall be from willing sellers.

Approximately 57% of acquisitions for Preserves are expected to occur on productive agricultural lands—primarily in the form of conservation easements. Conservation easements on agricultural lands shall emphasize maintaining the productive agricultural use of the land pursuant to the Plan.

Liability protections for landowners in the vicinity of Preserves are included in the Plan to ensure that activities on non-Preserve lands are not altered as a result of SJMSCP Preserves.

## **SJMSCP COVERED SPECIES**

The SJMSCP addresses impacts to 100 species of plants, animals and fish.

## VOLUNTARY PLAN

The SJMSCP is a voluntary plan for both local agencies and individuals. This means that local agencies will determine for themselves whether or not to become Plan Participants. The determination to participate or not participate in the Plan will be made through a public hearing held by the County and each of the cities.

## MITIGATION OPTIONS FOR INDIVIDUALS PURSUANT TO THE PLAN

Individuals who opt for SJMSCP coverage in jurisdictions which adopt the SJMSCP, have the following options, unless their activities are otherwise exempted per Chapter 8, Section 8.2.2, herein:

1. Pay a fee (see following section); or
2. Dedicate, as conservation easements or fee title, habitat lands (in-lieu dedications) as specified in the Plan; or
3. Purchase approved mitigation bank credits per the Plan.

Under each of these options, pre-established conditions to avoid direct killing of species shall be attached to project approvals.

Individuals in jurisdictions which do not opt for coverage under the SJMSCP will not have the opportunity to mitigate pursuant to the SJMSCP or to obtain ESA and CESA Incidental Take authority under the SJMSCP's associated permits.

## PLAN FEES

### PROPOSED FEES

CATEGORY	FEE PER ACRE
Vernal Pool Conversion - Wetted Surface Area/a/ Upland grassland/a/	\$30,000 \$5,000
Agricultural Habitat Lands and Non-Vernal Pool Natural Lands Conversion	\$1,500
Multi-Purpose Open Space Conversion	\$750

/a/ Average cost/acre is \$8,000 based on 12% average wetted surface area per acre assumption.

**SAN JOAQUIN COUNTY  
MULTI-SPECIES HABITAT CONSERVATION  
AND OPEN SPACE PLAN**

**AGRICULTURAL HIGHLIGHTS**

**I. CONSERVATION EASEMENTS - Section 5.3.3.1, pages 5-42 to 5-43.**

Provides for:

- A. Maintenance of agricultural or other beneficial open space uses and acknowledges the need to allow flexible and profitable agricultural enterprise.
- B. *Terminating the easement and replacing it with an equivalent easement or other habitat protection method in a manner acceptable to the easement holders, the parcel owner, and the JPA under specified conditions.*
- C. Liability protections for landowners in the vicinity of SJMSCP Preserves (Appendix W).
- D. Addresses maintenance of water rights by landowners.
- G. Remedies to landowners if interference with customary agricultural practices occurs.
- H. Establishes JPA's Technical Advisory Committee as arbitration committee

**II. NOTIFICATION OF NON-PRESERVE LANDOWNERS - Pages 5-44 to 5-45, Section 5.3.3.4. Prior to acquisition of easements for preserves, notification for public hearings shall occur as follows:**

- A. Written notification to all landowners located within "one-half (1/2) mile plus two parcels" of the proposed new Preserve site
- B. Notice shall be sent to the San Joaquin Farm Bureau
- C. Published notice in a countywide circulation newspaper.

Notices shall include:

- A. The Assessor's Parcel Numbers;
- B. *A general description of the parcel location;*
- C. *The date, time and location of the hearing;*
- D. *An address and deadline for submitting written comments;*
- E. Reference to proposed language to be included in proposed easements for landowner liability protections for non-Preserve landowners who may be affected

- by the Preserve;
- F. An address and phone number for obtaining additional information;
- G. Bold lettering stating that parcel owners are responsible for providing notice to lessees of lands which may be affected by the JPA's decision.

**III. CUMULATIVE IMPACTS OF OTHER HABITAT MANAGEMENT EFFORTS -  
Section 5.5.5**

**5.5.5 PRESERVATION OF AGRICULTURAL PRODUCTIVITY**

There are numerous habitat planning efforts which may be undertaken in the future in addition to the SJMSCP. Without coordination, these independent efforts could cumulatively alter the agricultural productivity of San Joaquin County. Specifically, the conservation efforts proposed in the *Draft Recovery Plan for the Upland Species of the San Joaquin Valley* (Federal Register Volume 62, #189, September 30, 1997) coupled with CalFed's Bay-Delta habitat conservation planning effort and the SJMSCP could target hundreds of thousands of acres of entirely separate agricultural lands to be used for conservation purposes. While the bulk of species covered by the *Draft Recovery Plan for the Upland Species of the San Joaquin Valley* are located outside of San Joaquin County, this program and other conservation projects could cumulatively change agricultural productivity in San Joaquin County. Therefore, to avoid adversely impacting agricultural productivity in San Joaquin County, the following is required:

The SJMSCP's Joint Powers Authority shall work with alternative habitat planning efforts including, but not limited to, the CalFed Bay-Delta and the San Joaquin Valley Upland Species Recovery efforts, to ensure a coordinated approach to these efforts and to ensure that the cumulative effects of these efforts does not significantly reduce San Joaquin County's agricultural productivity.

**IV. ECONOMIC IMPACTS OF PLAN ON AGRICULTURE. - Draft EIR/EIS To be Released  
in late May or June, 1998.**